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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,349	09/05/2003	Hans-Michael Sulzbach	PO-7787/HE-170	7812

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EXAMINER

NILAND, PATRICK DENNIS

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 08/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/656,349

Applicant(s)

SULZBACH ET AL.

Examiner

Patrick D. Niland

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/5/03, 2/9/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. The examiner hereby requests any information which the applicant might possess regarding the instant invention, particularly but not limited to any industrial bulletins or other information not readily available to the examiner regarding any commercially available device meeting the limitations of the device of the instant claims or relating to any components thereof such as the mixer blades, the valves of claim 10 or the flow destroying elements of claim 11.

See MPEP 704.10 [R-2] Requirements for Information and 37 CFR 1.105.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of the teachings of US Pat. No. 3346529 Peters, US Pat. No. 3807703 Day, US Pat. No. 5100699 Roeser, US Pat. No. 3319937 Wilson et al., US Pat. No. 3051455 Magester, and US Pat. No. 3881871 Porter.

These references each relate to continuously mixing polymer reaction mixtures and the devices therefore. The device of Day is most similar to that of the instant claims and Day uses it to mix polyols and polyisocyanates and additives. See the figure on the cover of the patent and the entirety of the disclosure. It however lacks the so-called throttle of the instant claims. The baffle means of column 6, lines 29-58 meets the elements of the instant claim 11. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the pinch valve of the instant claim 10 on the nozzle 16 of Day because such valves are known for aiding in precision dispensing as taught by Roeser, column 3, lines 27-51 and would have been

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expected to give the benefits disclosed by Roeser to the device of Day. Porter describes the back pressure created by such valves in similar systems and the desirability of such back pressure.

This is thought by the examiner to be understood by the ordinary skilled artisan who is expected to have studied fluid dynamics and Bernoulli's principles in undergrad classes. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the blade pitches of the instant claim 1 and 4 to 6, which are not taught by Day, because these pitches give only predictable results relating to the back pressure described by Porter and the flow of material through the mixer described by Day when considered with the blade surface area and shape, the number of blades, and the rotational speed of the blades. No unexpected result stemming only from the blade angle is seen in a manner commensurate in scope with the cited prior art and the instant claims. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use adjustable rotational speed for the stirrer of Day because Day implies such when one considers the disclosure of the variety of throughput rates of column 6, lines 59-61 in combination with the disclosure of column 3, lines 52-68; Magester shows that variable dispensing rates are required and why; such dispensing rates are related to the pressure in the mixing chamber which is related to the speed of the angled blades and is predictable considering Bernoulli's principles; and Wilson et al shows that the ordinary skilled artisan knows to vary paddle, i.e. blade, speed to change foam pore size at column 4, lines 62-69. Varying throughput is most easily accomplished by varying the speed of the blades creating the flow through the mixer. Furthermore, such variable speed mixers are well known.

The above discussed mixing device would clearly be useful as the "continuous reactor" of Peters, Fig. 1 or in the alternative, the above discussed modifications that are applicable to the

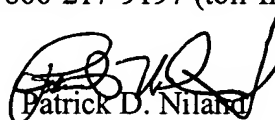
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continuous reactor of Peters Figure 1 would have been obvious to have been made to this reactor for the same reasons as applied to the mixer of Day.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick D. Niland whose telephone number is 571-272-1121. The examiner can normally be reached on Monday to Thursday from 10 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Patrick D. Niland
Primary Examiner
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